

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:99-00012-01

CALVIN DOUGLAS DYESS

MEMORANDUM OPINION AND ORDER

Pending before the court are defendants' motions, pursuant to 18 U.S.C. § 3582(c)(2), for a sentence reduction based on subsequent reductions in the applicable sentencing guideline. Both the United States and defendant, through counsel, have filed written memoranda addressing defendant's eligibility for a reduction. While the United States contends that defendant is not eligible for such a reduction, defendant argues that he is. Defendant's argument hinges, in large part, on his assertion that the court made a relevant conduct determination of 1.5 kilograms on remand. The United States has not directly responded to this assertion. Furthermore, subsequent to receipt of the parties' memoranda, the United States Court of Appeals for the Fourth Circuit issued its decision in United States v. Dyess, 730 F.3d 354 (4th Cir. 2013). That decision specifically addressed the limited scope of the evidentiary hearing upon which defendant relies.

Based on the foregoing, the parties are hereby **ORDERED** to file supplemental memoranda addressing whether defendant is entitled to a sentence reduction and, in particular, their

position as to the relevant conduct figure which guided defendant's sentence in this case. The parties should also address whether the decision in United States v. Dyess, 730 F.3d 354 (4th Cir. 2013), advances or undermines their position.

The Clerk is **DIRECTED** to send a copy of this Memorandum Opinion and Order to Defendant, the United States Attorney, the Federal Public Defender, and the United States Probation Office.

IT IS SO ORDERED this 22nd day of April, 2014.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge